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UNITED STATES PATENT AND TRADEMARK OFFICE

Examiner: T. H. Bui

Art Unit: 3752

In re:

Applicant: CHUPRIN

Serial No.: 10/763,909

Filed: 01/26/2004

BRIEF ON APPEAL

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03/05/2008
ILYA ZBOROVSKY

Commissioner for Patents
P O Box 1450
Alexandria, VA 22313-1450

Sir:

This is an appeal from the final rejection of claims 1, 2, 4, 7-10, 14
and 15.

Real Party of Interest

The real party of interest is the inventor of the present application - Mr. Valery Chuprin, residing at 2 West End Ave, Apt. 2W Brooklyn, NY 11235.

Related Appeals and Interferences

There are no related appeals and interferences or judicial proceedings known to appellant, the appellant's legal representative which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

Status of Claims

The present application includes claims 1, 2, 4, 7-10, 14 and 15.

All claims of the present application are rejected by the Examiner.

Appellant appeals from the rejection of claims 1, 2, 4, 7-10, 14 and 15.

Status of Amendments

The final Office Action in this application was issued on May 4, 2006.

Subsequent to the final Office Action, appellant filed an Amendment of August 4, 2006.

In the Advisory Action of September 29, 2006, the Examiner indicated that the Request for Reconsideration had been considered but did not place the application in condition for allowance.

The Examiner did not indicate whether it was not entered or not. Since the above mentioned Amendment did not raise any issues for the examination and search, it is believed that it was entered.

Summary of the Claimed Subject Matter

Claim 1 defines a method of stopping and extinguishing forest fires which includes the steps of erecting at least one substantially vertical wall 1, making the wall of a fabric fire-resistant material by unrolling a roll 4 of fire resistant material so as to erect the wall and configured so that when a forest fire reaches the wall it can be stopped and extinguished, and supporting the wall on a plurality of supports 2 extending over a whole height of the at least one wall.

Claim 9 defines the system comprising the vertical wall 1, which is made of a fabric fire-resistant material unrolled from a roll 4, and a plurality of supports 2 which support the wall.

This is disclosed on page 6 of the specification and in lines 1-3 on page 7 of the specification, and also in lines 10-17 on page 7 of the specification and shown in Figures 1 and 2 of the drawings.

Claims 2 and 10 define a plurality of walls or at least one further wall, namely forming walls 1, 1', 1" spaced at a predetermined distance from the first mentioned wall.

This is disclosed in lines 5-11 on page 8 of the specification and shown in Figure 4 of the drawings.

Claim 4 defines unrolling from the roll and it is disclosed in the same part of the application as claims 1 and 9.

Claims 7 and 14 define bringing vegetation 3 behind the wall to the ground and applying an anti-fire foam onto the vegetation.

This is described in lines 4-10 on page 7 and in lines 7-11 on page 8 of the specification, and shown for example in Figure 3.

Finally, claims 8 and 15 define at least one trench in which the erected wall 1 is placed.

This is disclosed in lines 1-4 on page 8 of the specification and shown in Figures 3 and 4 of the drawings.

Grounds for Rejection

The first grounds of rejection is a rejection of claims 1, 2, 4, 7, 9, 10 and 14 under 35 U.S.C. 102(b) over the patent to Farley.

The second ground for rejection is a rejection of claims 8 and 15 under 35 U.S.C. 103(a) over the patent to Farley.

Arguments

1. First ground for rejection to be reviewed on Appeal

Claims 1 and 9 define that in the inventive method and system the wall is composed of a fabric fire-resistant material unrolled from a roll and configured to stop and extinguish a forest fire. The patent to Farley discloses aluminum bonded to glass cloth with fire resistant.

These sheets which measure approximately 20 feet by 20 feet are attached to each other to form a fence. The sheets are suspended from arches. They are supported by being held in containers having bases which are held in the ground by spikes.

This construction is just impossible to carry out. In extreme field conditions of wind, cold, heat it is impossible to fix with one another the shields 8 x 8 m, to put up the poles 8-10 m high. They need a concrete foundation or braces with the fixed foundation. The poles will have thickness of 0.3 m, and must be considered more as column 5 than the poles.

The patent to Farley indicates that they are fixed by spikes. The spikes must have 3-4 length. One needs a hammer to drive them in, as shown in the drawing.

This construction can not be utilized in practice. It is enormously difficult to pull the multi-ton shields from the column. It is unclear how to do it: in a vertical position or in a horizontal position when the pole (support) is still on the ground?

In the appellant's invention the roll is fixed vertically, unwound from below, when it freely lies on the ground, upwardly, and fixed on 4-legs structures. They are easy to dismantle and to be assembled compactly. In the Farley patent they are pulled in a horizontal direction.

It is believed to be clear that this reference does not teach a method and a system in which a fabric fire-resistant material is utilized by unrolling from the roll and supporting on supports.

It is believed to be advisable to cite Lindenman Maschinenfabrik GmbH v. American Hoist & Derrick Co., 221 USPQ 481, 485 (Fed. Cir. 1984) in which it was stated:

"Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim."

Definitely, the patent to Farley does not teach and every element of the present invention as defined in claims 1 and 9.

It is therefore believed that the rejection of claims 1 and 9 under 35 U.S.C. 102(b) over the patent to Farley should be considered as not tenable and should be withdrawn and should be allowed.

Claims 2 and 10 define a plurality of walls composed of a fire resistant material and spaced at a predetermined distance from one another, or at least one further wall which is spaced at a predetermined distance from the first wall.

With the present invention having these features, it is possible for big and small cities located close to forests to make in advance the anti-fire cut-through paths in a forest, and if a forest fire approaches, the inventive system can be easily installed along these paths. The patent to Farley does not disclose any anti-fire cut-through paths. Also, forest roads can be used for erection of the inventive system.

The patent to Farley does not teach these features of the present invention. It is therefore believed that claims 2 and 10 should be considered as patentably distinguishing over the patent to Furley in the sense of 35 U.S.C. 102 and should be allowed.

Claims 7 and 14 define in the inventive method and system with vegetations behind the wall and an anti-fire foam applied on the vegetation brought to the ground. These features are not disclosed in the patent to Farley. There is no hint or suggestion that such features can be provided there. The Examiner just stated that it can be conventional; however, there is nothing conventional in improving methods and systems for stopping an extinguishing forest fires.

These features clearly and patentably distinguish the present invention from the prior art, provide for highly advantageous results in improving the chances for stopping and extinguishing the fire, and should be considered as patentably distinguishing over the art in the sense of 35 U.S.C. 102(b) and should be allowed.

It is believed that this is how the first grounds of the rejection have to be taken care of, and claims 1, 2, 4, 7, 9, 10 and 14 should be considered as patentably distinguishing over the art and should be allowed.

2. Second Ground for Rejection to be Reviewed on Appeal

Claims 8 and 15 define forming at least one trench and placing the wall in the trench. This feature can not be considered as obvious. It is necessary first of all to place the roll 4 of the wall in the trench so that the roll can be conveniently located and centered in the trench, and then the wall can be unrolled vertically upwardly without the trench the roll will not be centered and held, for unrolling.

These features are new, highly advantageous, unobvious and they are not disclosed in the reference. When the wall is placed in the trench, the roll is first placed in the trench, and the trench provides for highly advantageous results.

This is how the second ground on appeal has to be taken care of, and claims 8 and 15 should also be considered as patentably distinguishing over the patent to Furley in the sense of 35 U.S.C. 103(a) and should be allowed as well.

Reconsideration of the present application, reversal of the Examiner's rejection of the claims, and allowance of the claims is most respectfully requested.



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CLAIMS APPENDIX

1. A method of stopping and extinguishing forest fires, comprising the steps of erecting at least one substantially vertical wall; making the wall of a fabric fire-resistant material by unrolling said roll fire resistant material from a roll so as to erect said wall and configured so that when a forest fire reaches the wall it can be stopped and extinguished, supporting said at least one wall on a plurality of supports extending over a whole height of said at least one wall.

2. A method as defined in claim 1; and further comprising erecting at least one further such wall composed of a fire resistant material, which is spaced at a predetermined distance from said first-mentioned wall.

4. A method as defined in claim 1; and further comprising providing said at least one wall of a fire resistant material initially as a roll of said fire resistant material, said erecting includes unrolling of said roll of a fire resistant material so as to erect at said wall.

7. A method as defined in claim 1; and further comprising bringing vegetation behind the at least one wall to the ground, and applying an anti-fire foam onto the vegetation brought to the ground.

8. A method as defined in claim 7; and further comprising forming at least one trench, said erecting includes placing the wall in the at least one trench.

9. A system for stopping and extinguishing of forest fires, comprising at least one substantially vertical wall; said wall being made of a fabric fire-resistant material and unrolled from a roll and configured so that when a forest fire reaches the wall it can be stopped and extinguished; and a plurality of supports which support said at least one wall and extend over a whole height of said at least one wall.

10. A system as defined in claim 9; and further comprising at least one further such wall composed of a fire resistant material, which is spaced at a predetermined distance from said first mentioned wall.

14. A system as defined in claim 11; and further comprising vegetation located behind the at least one wall and brought to the ground and an anti-fire foam applied onto the vegetation brought to the ground.

15. A system as defined in claim 14; and further comprising at least one trench, said wall is arranged in the at least one trench.

RELATED PROCEEDINGS APPENDIX

There are no decisions rendered by accord or the board in any proceedings pursuant to paragraph "Related Appeals and Interferences" of the Brief on Appeal".

EVIDENCE APPENDIX

None